



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,223	01/04/2007	Susumu Yamaguchi	4600-0121PUS1	8401

2292 7590 03/17/2011  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
----------

MUKHOPADHYAY, BHASKAR

ART UNIT	PAPER NUMBER
----------	--------------

1789

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

03/17/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,223	<b>Applicant(s)</b> YAMAGUCHI ET AL.	
	<b>Examiner</b> BHASKAR MUKHOPADHYAY	<b>Art Unit</b> 1789	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/22/2011</u> .   | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

***Continued Examination under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/15/2010 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,148

Art Unit: 1789

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- a. Determining the scope and contents of the prior art.
- b. Ascertaining the differences between the prior art and the claims at issue.
- c. Resolving the level of ordinary skill in the pertinent art.
- d. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes, USPN 5169669 in view of evidence prior art by NPL "Vegetable oil FA composition and in view of Gilbertson, USPN 6166076 .

5. Regarding claims 14, and 15, Haynes et al. disclose heating cooking oil containing e.g. 99.9% canola oil (col 5, lines 15-20; and claim 5) which is vegetable cooking oil wherein the oil is refined, bleached and deodorized (col 5 lines 30-35) in order to avoid offensive order during cooking (Abstract) in order to make the oil appropriate for use as frying oil (col 5 line 50). There is no explicit disclosure in Haynes et al. of method of cooking foods as claimed. However, although there is no explicit disclosure of cooking foods, given that Haynes et al. disclose cooking oils for frying and heating the oil to frying temperature, it would have been obvious to one of ordinary skill in the art to fry food with the oil and fat in order to produce cooked and fried product.

Haynes et al., however, do not teach about (a) fat and amount of PUFA in the cooking oil and (b) 'enhancing body taste of foods'.

Art Unit: 1789

With respect to (a), although there is no specific disclosure in Haynes et al. of unsaturated fatty acid as claimed, it is well known, as evidenced by NPL Vegetable oil that canola oils comprises fats (i.e. palmitic C16:0) and 8-22% linolenic acid (equivalent to e.g. 8%= 80000 ppm) which overlaps the claimed range of 10-100000 ppm to meet claim 14.

With respect to (b), although there is no explicit disclosure in Haynes et al. of enhancing body taste of foods, on the one hand, it is well known as evidenced by Gilbertson that linolenic acid which has 18 carbon atoms (n-6) and 3 double bonds (Abstract; Table 1) has the characteristics of taste stimuli through taste receptor cells and therefore increases the taste receptor cells sensitivity to other stimuli (Abstract) and thus, the method of Haynes would intrinsically enhance the body taste of food.

Alternatively, Gilbertson teaches about a method for making various foods with cis polyunsaturated fatty acids (col 2 lines 55-60, e.g. in lines 57-58, 'addition of these fatty acids to foods', known as PUFAs (col 7, line 43, e.g. cis poly unsaturated fatty acids or PUFAs) in order to stimulate taste receptors in the mouth (col 9, lines 10-15). Gilbertson also teaches about fatty acids exhibiting these properties are those having 20 or more carbon atoms for n-3 or 18 or more carbon atoms for n-6 and having 3 or more double bonds, and polyunsaturated fatty acids including arachidonic acid, eicosapentaenoic acid, and docosahexaenoic acid ( Abstract; Table 1) and the time for taste receptor cells to return to the "resting" state is longer following fatty acid stimulation than for other taste stimuli and so increases the taste receptor cells sensitivity to other stimuli (Abstract), thus meeting the claimed element "enhancing body taste of foods". The

Art Unit: 1789

motivation is to make the food more palatable with the stimulation of taste buds and enhancement of taste (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of invention to include the teaching of NPL Vegetable oil in Gilbertson into Haynes. One of ordinary skill in the art would have been motivated to make the food with the specified PUFA as claimed in order to make food more palatable with the stimulation of taste buds and enhancement of taste (Abstract).

### **Response to Argument**

6. Applicants' arguments have been fully considered but they are moot in view of the new grounds of rejection set forth above.

### **Conclusion**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1789

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Bhaskar Mukhopadhyay whose telephone number is (571)-270-1139.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571)-272- 1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.M. /  
Patent Examiner, Art Unit 1789

/Callie E. Shosho/  
Supervisory Patent Examiner, Art Unit 1787

Application/Control Number: 10/578,223  
Art Unit: 1789

Page 7